

House Bill 607

By: Representatives Stephenson of the 92nd, Morgan of the 39th, Mosby of the 90th, Williams of the 89th, Brooks of the 63rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment for serious violent offenders, so as to eliminate the mandatory minimum punishment for certain persons convicted of certain serious violent offenses; to provide for a definition; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment for serious violent offenders, is amended by striking said Code section and inserting in lieu thereof the following:

"17-10-6.1.

(a) As used in this Code section, the term 'serious violent felony' means:

(1) Murder or felony murder, as defined in Code Section 16-5-1;

(2) Armed robbery, as defined in Code Section 16-8-41;

(3) Kidnapping, as defined in Code Section 16-5-40;

(4) Rape, as defined in Code Section 16-6-1;

(5) Aggravated child molestation, as defined in Code Section 16-6-4;

(6) Aggravated sodomy, as defined in Code Section 16-6-2; or

(7) Aggravated sexual battery, as defined in Code Section 16-6-22.2.

(b) Notwithstanding any other provisions of law to the contrary, any person who is 18 years of age or older at the time of arrest and who is subsequently convicted of a serious violent felony as defined in paragraphs (2) through (7) of subsection (a) of this Code section shall be sentenced to a mandatory minimum term of imprisonment of ten years and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court and shall not be reduced by any form of pardon, parole, or commutation of sentence by the State Board of Pardons and

1 Paroles. No person convicted of a serious violent felony as defined in subsection (a) of this
2 Code section shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of
3 Title 42, relating to probation for first offenders, or any other provision of Georgia law
4 relating to the sentencing of first offenders. The State of Georgia shall have the right to
5 appeal any sentence which is imposed by the superior court which does not conform to the
6 provisions of this subsection in the same manner as is provided for other appeals by the
7 state in accordance with Chapter 7 of Title 5, relating to appeals or certiorari by the state.

8 (c)(1) Except as otherwise provided in subsection (c) of Code Section 42-9-39, for a first
9 conviction of a serious violent felony in which the defendant has been sentenced to life
10 imprisonment, that person shall not be eligible for any form of parole or early release
11 administered by the State Board of Pardons and Paroles until that person has served a
12 minimum of 14 years in prison. The minimum term of imprisonment shall not be reduced
13 by any earned time, early release, work release, leave, or other sentence-reducing
14 measures under programs administered by the Department of Corrections.

15 (2) For a first conviction of a serious violent felony in which the defendant has been
16 sentenced to death but the sentence of death has been commuted to life imprisonment,
17 that person shall not be eligible for any form of parole or early release administered by
18 the State Board of Pardons and Paroles until that person has served a minimum of 25
19 years in prison. The minimum term of imprisonment shall not be reduced by any earned
20 time, early release, work release, leave, or other sentence-reducing measures under
21 programs administered by the Department of Corrections.

22 (3) Any sentence imposed for the first conviction of any serious violent felony other than
23 a sentence of life imprisonment or life without parole or death shall be served in its
24 entirety as imposed by the sentencing court and shall not be reduced by any form of
25 parole or early release administered by the State Board of Pardons and Paroles or by any
26 earned time, early release, work release, leave, or other sentence-reducing measures under
27 programs administered by the Department of Corrections, the effect of which would be
28 to reduce the period of incarceration ordered by the sentencing court.

29 (d) For purposes of this Code section, a first conviction of any serious violent felony
30 means that the person has never been convicted of a serious violent felony under the laws
31 of this state or of an offense under the laws of any other state or of the United States, which
32 offense if committed in this state would be a serious violent felony. Conviction of two or
33 more crimes charged on separate counts of one indictment or accusation, or in two or more
34 indictments or accusations consolidated for trial, shall be deemed to be only one
35 conviction.

36 (e) Any person who is younger than 18 years of age at the time of arrest for a serious
37 violent felony as defined in paragraphs (2) through (7) of subsection (a) of this Code

1 section and who is subsequently convicted therefor shall not be sentenced to a mandatory
2 minimum term of imprisonment."

3 **SECTION 2.**

4 This Act shall become effective upon its approval by the Governor or upon its becoming law
5 without such approval and shall apply to any person who is sentenced after the effective date
6 of this Act for a serious violent felony as defined in Code Section 17-10-6.1.

7 **SECTION 3.**

8 All laws and parts of laws in conflict with this Act are repealed.